

1 JESSICA L. GRANT (SBN 178138)
JONATHAN A. PATCHEN (SBN 237346)
2 TAYLOR & COMPANY LAW OFFICES, LLP
One Ferry Building, Suite 355
3 San Francisco, California 94111
Telephone: (415) 788-8200
4 Facsimile: (415) 788-8208
E-mail: jgrant@tcolaw.com
5 E-mail: jpatchen@tcolaw.com

6 Attorneys for Defendant SOFTSCAPE, INC.

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION
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11 SUCCESSFACTORS, INC., a Delaware
corporation,

12 Plaintiff,

13 v.

14 SOFTSCAPE, INC., a Delaware corporation;
15 and DOES 1-10, inclusive,

16 Defendant.

Case No.: C-08-1376 (CW)

**DECLARATION OF SUSAN MOHR IN
SUPPORT OF DEFENDANT
SOFTSCAPE, INC.'S RESPONSE TO
ORDER TO SHOW CAUSE AND IN
OPPOSITION TO MOTION OF
PLAINTIFF SUCCESSFACTORS, INC.
FOR EXPEDITED DISCOVERY**

Date: March 27, 2008

Time: 2:00 p.m.

Judge: Hon. Claudia Wilken

Place: Courtroom 2

1 I, Susan Mohr, declare as follows:

2 1. I am General Counsel for Softscape, Inc. ("Softscape"), the defendant in this mater.
3 As such, I make this declaration of my own personal knowledge, unless otherwise stated, and if
4 called as a witness, I could and would testify competently to the facts stated herein.

5 2. I previously submitted a sworn declaration entitled "Declaration of Susan Mohr in
6 Support of Softscape, Inc.'s Opposition to Plaintiff's Ex Parte Application for Temporary
7 Restraining Order And Order To Show Cause Re: Preliminary Injunction," filed with this Court on
8 March 12, 2008. I reaffirm all statements I made in that declaration. Attached hereto as Exhibit A
9 is a true and correct copy of my March 12, 2008 declaration.

10 3. Softscape and plaintiff SuccessFactors, Inc. ("SuccessFactors") are competitors in
11 the market to provide human resource software.

12 4. I am aware of the alleged dissemination of a PowerPoint presentation (the
13 "Presentation") critical of SuccessFactors that forms the basis of this lawsuit. To my knowledge,
14 there have been no further public distributions of this or any other similar Presentation by any
15 person connected with Softscape.

16 5. To the best of my knowledge, Softscape has never used, is not now using, and will
17 not use the Presentation in any external sales meeting or marketing effort. Softscape did not
18 authorize, allow, permit, condone, or otherwise ratify the actions of the person who distributed the
19 Presentation. Softscape did not distribute the Presentation.

20 6. When Softscape learned of the distribution of the Presentation, the CEO of
21 Softscape, Dave Watkins, sent an e-mail to all sales staff reaffirming the confidentiality of the
22 document and that it was not to be released outside of the company. Attached as Exhibit B is a
23 true and correct copy of Mr. Watkins' March 12, 2008 email.

24 7. Softscape does not currently know how or by whom the Presentation was released.
25 However, if it was disseminated by an employee, it was certainly done outside such employee's
26 scope of employment and in direct contravention of the Softscape employment and confidentiality
27 policies by which all employees agree to be bound. For example, Softscape's Code of Conduct
28

1 provides that "No employee shall disclose the Company's confidential information to an
2 unauthorized third party or use the Company's confidential information for his or her own
3 personal benefit."

4 8. Softscape consistently enforces the terms of its employment and confidentiality
5 policies, and violators are subject to discipline up to, and including, termination. Softscape has
6 even sued employees and former employees for breaches of its employment agreements.

7 9. Softscape remains unaware of how the Presentation came to be disseminated, but it
8 continues to investigate the facts and circumstances surrounding its distribution. If an employee
9 of Softscape is found to be responsible, in whole or in part, Softscape will take appropriate action
10 as described above and as provided for in the employee's employment agreements.

11 10. I have reviewed SuccessFactors' request for expedited discovery wherein it is
12 argued that Softscape may delete or modify electronic data in its possession. This will not occur.
13 Softscape is fully SAS 70 Type II compliant. Moreover, Softscape backs up all relevant non-
14 financial company information three times a week. Softscape takes its obligations of preserving
15 all potentially relevant material seriously and has commercially reasonable document retention
16 policies already in place. In addition, Softscape has taken extra steps to ensure preservation of any
17 relevant electronic data that it retains in its normal course of business.

18 I declare under penalty of perjury under the law of the United States of America
19 that the foregoing is true and correct. Executed this 17 day of March 2008 in Wayland,
20 Massachusetts.

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22 Susan Mohr
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EXHIBIT A

Case 4:08-cv-01376-CW Document 25 Filed 03/12/2008 Page 1 of 3

1 GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY, LLP
2 ROBERT A. GOODIN, State Bar No. 061302
3 FRANCINE T. RADFORD, State Bar No. 168269
4 KEITH E. JOHNSON, State Bar No. 202321
5 505 Sansome Street, Suite 900
6 San Francisco, California 94111
7 Telephone: (415) 392-7900
8 Facsimile: (415) 398-4321

9 Attorneys for Defendant
10 Softscape, Inc.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 OAKLAND DIVISION

14 SUCCESSFACTORS, INC., a Delaware
15 corporation,

16 Plaintiff,

17 v.

18 SOFTSCAPE, INC., a Delaware corporation;
19 and DOES 1-10, inclusive,

20 Defendants.

No. CV 08 1376 CW

**DECLARATION OF SUSAN MOHR IN
SUPPORT OF SOFTSCAPE, INC.'S
OPPOSITION TO PLAINTIFF'S EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Date of Filing: March 11, 2008

GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY, LLP
ATTORNEYS AT LAW
SAN FRANCISCO

21 Decl. of Susan Mohr ISO Opp. to
22 Plaintiff's Ex Parte App. for TRO

Case No. CV 08 1376 CW

1 I, Susan Mohr, declare as follows:

2 1. I am General Counsel for Softscape, Inc., the defendant in this matter. As
3 such, I make this declaration of my own personal knowledge, unless otherwise stated, and if
4 called as a witness, I could and would testify competently to these facts.

5 2. Softscape, Inc., ("Softscape") headquartered in Wayland, Massachusetts,
6 has successfully developed and marketed human resource management software for more than a
7 decade. Its customers include Fortune 500/Global 500, mid-market, and government
8 organizations around the world.

9 3. I have reviewed the Ex Parte Application for Temporary Restraining Order
10 and Order to Show Cause re: Preliminary Injunction, and the supporting Memorandum of Points
11 and Authorities, filed with this Court on March 11, 2008, by SuccessFactors, Inc.
12 (SuccessFactors, Inc. v. Softscape, Inc.) ("the Application").

13 4. The claims for relief made in the Application arise out of the anonymous
14 circulation on the internet of a PowerPoint Presentation ("the Presentation") critical of plaintiff
15 and its products, which plaintiffs alleges was disseminated via email on March 4, 2008. While
16 the Presentation contained within the email was created in-house by Softscape, it was intended for
17 internal use only by sales and contained what I believed to be accurate information. Softscape did
18 not authorize release or publication of the Presentation, and to the best of my knowledge
19 Softscape did not participate in its alleged circulation to SuccessFactor's customers on the
20 internet or otherwise, directly or indirectly. Although I am continuing to investigate, Softscape is
21 presently unaware how the disclosure of the Presentation occurred. Further, I am not aware of
22 any information that there was any dissemination of this material other than by the single
23 anonymous March 4, 2008, email.

24 5. To the best of my knowledge, Softscape has never and is not now using the
25 Presentation in external sales meetings or marketing efforts, and has no intention to release on the
26 internet, or otherwise publish externally, the Presentation, which it considers to be confidential
27 business information of Softscape. To this end, when this matter was brought to our attention,
28 our CEO sent an e-mail to all sales staff reaffirming the confidentiality of this document and that

Decl. of Susan Mohr ISO Opp. to
Plaintiff's Ex Parte App. for TRO

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Case No. CV 08 1376 CW

1 it was not to be released outside of the company.

2 I declare under the penalty of perjury under the laws of the State of California.

3 Dated: March 12, 2008

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/s/Susan Mohr
SUSAN MOHR

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Filer's Attestation: I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document.

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GOODIN, MACBRIDE, SQUERI, DAY & LAMFREY, LLP
ATTORNEYS AT LAW
SAN FRANCISCO

DECLARATION OF SUSAN MOHR IN SUPPORT

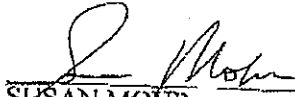
-2-

Case No.CV 08 1376 CW

1 it was not to be released outside of the company.

2 I declare under the penalty of perjury under the laws of the State of California.

3 Dated: March 12, 2008

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5 
6 SUSAN MOIR

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GODIN, MACBRIDE, SQUIR, DAY & LAMPREY, LLP
ATTORNEYS AT LAW
SAN FRANCISCO

DECLARATION OF SUSAN MOIR IN SUPPORT

EXHIBIT B

From: Dave Watkins
Sent: Wednesday, March 12, 2008 5:45 PM
To: *Sales Group
Cc: Susan Mohr
Subject: CONFIDENTIAL
Team:

Our Internal Naked Truth Document somehow made it to the outside world. It is a Softscape confidential document that should be used only for internal use by sales. Information contained in the document should be used judiciously in competitive situation as required.

If anyone knows how this was distributed please let me or Susan know. All discussions will be kept confidential.

The Naked truth is based on publicly available information.

Dave Watkins

Founder, CEO

Softscape, Incorporated

Softscape ConferenceManager

One Softscape Place

526 Boston Post Road

Wayland, MA 01778

(+ 1 508 358 1072 x1300 (Office)

(+ 1 617 835 8835 (Cell)

7 + 1 508 358 3072

(07824646245 (UK Local Cell)

* dave@softscape.com

7 www.softscape.com

Atlanta | Bangkok | Boston | Chicago | Connecticut | Dallas | Hong Kong | Johannesburg | London |

New York | San Francisco | Sydney | Washington DC |

Softscape Recognized by Forrester as one of the only vendors that can claim to have the "four pillars" of Strategic HCM - Performance, Learning, Rewards and Recruitment and "Softscape has done a good job in assembling a full strategic HCM suite"

For more, please see the press release at http://www.softscape.com/us/pr2007/pr_07_04-16_forrester-tm.htm